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8	BEFORE THE BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	In the Matter of the Accusation Against: Case No. 2013-749
12	RICHARD E. BAROI 1110 Alexis Lane
13	Redlands, CA 92374 ACCUSATION
	Registered Nurse License No. 738891
14	Respondent.
15	Complainant alleges:
16 17	<u>PARTIES</u>
18	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19	official capacity as the Executive Officer of the Board of Registered Nursing, Department of
	Consumer Affairs.
20	2. On or about October 24, 2008, the Board of Registered Nursing issued Registered
21	Nurse License Number 738891 to Richard E. Baroi (Respondent). The Registered Nurse License
22 23	was in full force and effect at all times relevant to the charges brought herein and will expire on
23 24	July 31, 2014, unless renewed.
25	JURISDICTION
	3. This Accusation is brought before the Board of Registered Nursing (Board),
26 27	Department of Consumer Affairs, under the authority of the following laws. All section
	references are to the Business and Professions Code unless otherwise indicated.
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STATUTORY PROVISIONS

- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
 - 6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following: . . . "
- 7. Section 726 states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3."

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

SUMMARY OF FACTS

9. On or about May 3, 2011 to May 4, 2011, Respondent was working a 7:00 p.m. to 7:00 a.m. shift as a full time nurse in the telemetry unit (4North) of Arrowhead Regional Medical Center and was the primary care nurse for Patient L.B.

- 10. Patient L.B. was a 32 year old female admitted to 4North on or about May 3, 2011 with a diagnosis of Community Acquired Pneumonia with Hypoxia (low blood oxygen level) and Hypokalemia (low serum potassium level) after complaining of a fever for four days.
- 11. At approximately 11:00 p.m. on May 3, 2011, Respondent administered a sponge bath to Patient L.B. to cool her body because she was running a fever. Respondent then applied lotion to Patient L.B.'s body including her breasts and nipples. Respondent indicated to Patient L.B. that he was performing a breast exam.
- 12. Sometime later in the night, Respondent informed Patient L.B. that she smelled bad down there and offered to clean her up, or provide cleaning materials. However, on May 3, 2011 at 21:52 hours and May 4, 2011 at 05:45 hours, Respondent's entries in Patient L.B.'s records for Reproductive Assessment showed "No vaginal discharge or odor" and his entries for Genitourinary Assessment for those times also showed clear yellow urine without dysuria. Respondent was admitted for Pneumonia and there was no indication in the admitting notes, physician's notes, or Respondent's assessments that a urinary tract infection might be the cause of Patient L.B.'s fever.
- 13. On or about May 4, 2011, Patient L.B. complained to several members of ARMC staff as well as the Colton Police Department that Respondent had inappropriately touched her breasts and offered to clean her vagina.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

14. Respondent is subject to discipline under Code section 2761, subdivision (a) on the grounds of unprofessional conduct in relation to his care of Patient L.B. in that on or about May 3, 2011, while on duty as a registered nurse at Arrowhead Regional Medical Center, Respondent inappropriately applied lotion to Patient L.B.'s breasts and nipples and offered to clean Patient L.B.'s vagina when there was no indication to do so. Complainant hereby refers to and incorporates all the allegations contained in paragraphs 9 through 13 above, as though set forth fully.

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SECOND CAUSE FOR DISCIPLINE

(Sexual Misconduct)

15. Respondent is subject to discipline under Code section 726 on the grounds of unprofessional conduct in that on or about May 3, 2011, while on duty as a registered nurse at Arrowhead Regional Medical Center, Respondent engaged in acts of sexual abuse, misconduct, or relations with a patient by inappropriately applying lotion to Patient L.B.'s breasts and nipples and offering to clean Patient L.B.'s vagina when there was no indication to do so. Complainant hereby refers to and incorporates all the allegations contained in paragraphs 9 through 13 above, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- Revoking or suspending Registered Nurse License Number 738891, issued to Richard
 Baroi;
- 2. Ordering Richard E. Baroi to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: March 13, 2013

LOUISE R. BAILEY, M.ED., RN

Executive Officer

Board of Registered Nursing Department of Consumer Affairs

State of California Complainant

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